IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.4325 of 2004

Date of Decision: 14.12.2006

Jeeto Devi .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.KS Dadwal, Advocate
for the petitioner.

Mr.BS Chahal, AAG Punjab for the respondents.

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S. D. ANAND, J.

The grievance of the petitioner is that the addressing of innumerable representations notwithstanding, the retiral benefits (death-cum-retirement gratuity and family pension) in respect of the death of her (2nd) husband Sarwan Dass have not been released to her by the respondents. Yet another facet of the grievance is that the respondents have also not offered to her compassionate appointment on account of the death of Sarwan Dass in harness on 18.4.1990.

On her own showing, the petitioner was first married to Kartar Chand, a real brother of Sarwan Dass. Both of them (i.e. Kartar Chand and Sarwan Dass) were joint in residence. On an averment that she married Sarwan Dass during the life time of her first husband Kartar Chand, she raised the aforesaid claims which have been denied to her by the

respondents.

The respondents, conceded the death in harness of Sarwan Dass, a Peon in the employment of Education Department, on 18.4.1990, but re-iterated the correctness of refrain on their part in the grant of the claimed benefits on an averment that the petitioner is not the wife of Sarwan Dass and is, in fact, recorded in the death certificate (Annexure R1) as the wife of Kartar Chand. Qua the release of GPF and leave encashment in favour of the petitioner, it was averred that the release thereof was inadvertent. It was pleaded that the inadvertence on point of release of those benefits to the petitioner cannot be requested to be perpetuated by the grant of presently requested benefits. The further plea raised on behalf of the respondents is that the petitioner just could not have validly married Sarwan Dass during the life time of her first husband Kartar Chand. It was averred, in the context, that Sarwan Dass died on 18.4.1990; while Kartar Chand died on 1.7.1995.

We have heard Mr.K.S.Dadwal, learned counsel for the petitioner and Mr.BS Chahal, AAG Punjab for the respondents and have carefully perused the record.

As the parties are Hindus, they would obviously be governed by the Hindu Marriage Act. As per the provisions thereof, the petitioner could not have married Sarwan Dass during the life time of her conceded first husband Kartar Chand. The writ petition does not at all indicate how at all the petitioner could have entered into a valid second marriage during the life time of her first husband. It is too late in the day for the learned Counsel for the petitioner to enter a verbal plea that the affected parties were governed by custom which validated Kareva form of marriage. The

pleadings do not at all contain an averment about the affected parties having been governed by the averred custom. Exhibit R1 (apparently and inadvertently described in the written statement filed by the respondents as a Death Certificate) is a copy of the ration card held by Jeeto Devi wife of Kartar Chand. Annexure R2 is a copy of the voters list pertaining to the year 1999. In that as well, petitioner Jeeto Devi is recorded as wife of Kartar Chand.

The reliance placed by the learned counsel for the petitioner upon Annexure R8 is thoroughly mis-conceived. The relevant contents of Annexure R8 are extracted hereunder:

> "The verification made through the Sub Divisional Officer (Civil), Mukerian, reveals that Smt.Jeeto Devi widow of Kartar Singh, resident of village Mehtapur, Tehsil Mukerian was dependent upon Sh.Sarwan Dass s/o Lachhman Dass who died on 18.4.90."

As would be apparent from a perusal of Annexure R8, all that the Deputy Commissioner, Hoshiarpur certified thereby was that Jeeto Devi widow of Kartar Chand was dependent upon Sarwan Dass. That certification is dated 24.12.1996. Its falsity/invalidity is apparent from the very fact that Mst.Jeeto Devi has been recorded therein as widow of Kartar Chand (who died on 1.7.1995. She has neither been recorded as wife of Sarwan Dass who died on 18.4.1990. As Kartar Chand died on 1.7.1995, the petitioner could not have been described in the course of that letter as his widow. It is apparent that the certification issued by the Deputy Commissioner, Hoshiarpur on the basis of the verification made through S.D.O. (Civil), Mukerian was incorrect and aimed at enabling the petitioner

to obtain the retiral benefits under reference to which she was otherwise not entitled.

For the facts noticed in the preceding paras, the petition is thoroughly mis-conceived and untenable in law and also on facts. It only represents an attempt made by the petitioner to obtain a benefit which was not hers and, in that process, she has made factually incorrect averments. That she sought sustenance in the relevant behalf from the verification-based certification issued by holders of public office is also not in order. We would accordingly dismiss this writ petition with costs of Rs.10,000/-. The payments already received by her from the Department shall be returned by her within a period of three months from today. If the petitioner does not do so voluntarily, the respondents shall take steps in accordance with law to effect the recovery thereof.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

December 14, 2006
SRM